



Boardman, Suhr, Curry & Field

Attorney Gerard J. Duffy

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The City also understands that CTC would like to begin construction as soon as possible. With that in mind, the City drafted what it believes is a straightforward and reasonable agreement that protects the City's interests in managing its rights-of-way, while not creating a barrier to entry.

Very truly yours,

BOARDMAN, SUHR, CURRY & FIELD

By

A handwritten signature in black ink that reads "Anita Gallucci". The signature is written in a cursive style with a small "jm" at the end.

Anita T. Gallucci

ATG/jan

enclosure

cc: Rick Vergin (fax 715-837-1196)  
Curtis E. Snyder (fax 715-234-6829)  
Mic Givens (fax 715-234-8077)  
Barry Orton

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## **LICENSE AGREEMENT FOR USE OF CITY RIGHTS-OF-WAY**

This License Agreement is entered into between the City of Rice Lake, Wisconsin (City) and CTC-Telecom, Inc., (Grantee) a \_\_\_\_\_ corporation and a wholly owned subsidiary of the Chibardun Telephone Cooperative, Inc.

### **RECITALS**

A. Grantee desires to construct, maintain and operate within City Rights-of-Way a Telecommunications Network to offer Telecommunications Services within the City of Rice Lake and to offer Cable Television Service.

B. Pursuant to its authority to manage local Rights-of-Way, City is considering the development and adoption of a comprehensive ordinance ("Telecommunications Ordinance"), which will regulate the use of City Rights-of-Way by all Telecommunications Providers and which may contain a requirement for payment of an annual fee to reasonably compensate City for use of the Rights-of-Way.

C. The City intends that the Telecommunications Ordinance shall, when adopted, apply to Grantee and desires to enter into an interim agreement setting forth the terms and conditions for Grantee's use of the Rights-of-Way until such time as the Telecommunications Ordinance becomes effective.

### **AGREEMENT**

NOW, THEREFORE, CITY AND GRANTEE AGREE AS FOLLOWS:

1. **Recitals.** The Recitals are incorporated and form part of this Agreement.
2. **Definitions.** For the purpose of this Agreement, and except as defined specifically below, the terms, phrases, words and their derivations herein used shall be given their common and ordinary meaning.
  - a. "Cable Television Service" shall have the meaning given that term in Section 602 of the Cable Communications Policy Act of 1984, 47 U.S.C. § 522.

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- b. "City" shall mean the City of Rice Lake, Wisconsin, a Wisconsin municipal corporation.
- c. "Grantee" shall mean CTC-Telecom, Inc., a \_\_\_\_\_ corporation.
- d. "License" shall mean Grantee's right to use City Rights-of-Way subject to the terms and conditions of this Agreement.
- e. "Line" shall mean any cables, wires, lines, towers, wave guides, optical fibers or other fiber optic cable, laser equipment, and any associated equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, transmitting and/or distributing audio, video, data and other forms of electronic signals or light waves to and from Persons or locations within the City.
- f. "Person" shall mean any corporation, company, association, firm, partnership, limited liability company, limited liability partnership, and other business entities, and individuals.
- g. "Rights-of-Way" shall mean the surface and space above and below any public street, highway, sidewalk, terrace, or alley.
- h. "Telecommunications Provider" means any Person who provides Telecommunications Services.
- i. "Telecommunications Services" means the offering for sale of the conveyance of voice, data or other information at any frequency over any part of the electromagnetic spectrum, including the sale of service for collection, storage, forwarding, switching and delivery incidental to such communication and including the regulated sale of customer premises equipment. "Telecommunications Services" does not include Cable Television Service or broadcast service.
- j. "Telecommunications Network" or "Network" shall mean Grantee's telecommunications network within the City as shall be more fully detailed in Addendum A, which is incorporated by reference. "Network" shall include those telecommunications lines, wires, fiber optic cable, equipment and

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facilities owned, leased, or controlled by Grantee, and which is a part of Grantee's Network.

3. Purpose. The purpose of this Agreement is to provide for the health, safety and well-being of the residents of City as they use City's Rights-of-Way, as well as to ensure the structural integrity of City Rights-of-Way. City desires to minimize the number of obstructions and excavations taking place thereon and to regulate the placement of telecommunications facilities within the Rights-of-Way to ensure that the Rights-of-Way remain available for public services. This Agreement shall regulate occupancy, obstructions of, and excavations in the Rights-of-Way by providing, among other things, for the authority to utilize and occupy City Rights-of-Way.

4. Grant of License.

- a. Grant of Authority. City hereby grants Grantee a nonexclusive license to construct, maintain, and operate its Telecommunications Network, including Lines and other appurtenances necessary for the operation of the Network, in, upon, along, above, over and under City Rights-of-Way.
- b. Subject to Other Requirements. Grantee's right to construct, maintain and operate its Network is subject to the terms, conditions, and requirements of the City of Rice Lake General Ordinances and this Agreement. Grantee's right to construct, erect, install or modify its Network is specifically subject to the requirement that Grantee obtain permits as set forth in City's Ordinances.
- c. Subject to Police Powers. Grantee expressly acknowledges and agrees, by acceptance of this License, that its rights under the License are subject to the police powers of City to adopt and enforce general ordinances necessary to the safety, health and welfare of the public, and subject to state and federal law, the Grantee agrees to comply with all such applicable general laws and ordinances enacted by City. City, by the granting of this License, does not render or to any extent lose, waive, impair or lessen the lawful powers and rights, now or hereafter vested in City under the Constitution and Statutes of the State of Wisconsin to regulate the use of the Rights-of-Way; and Grantee, by its acceptance of this License, acknowledges and agrees that all lawful powers and rights, subject to state and federal law, whether regulatory or otherwise, as are or may be from time to time vested in or reserved to City,

shall be in full force and effect and Grantee shall be subject to the exercise thereof by City at any time.

- d. After-Acquired Facilities. Grantee expressly acknowledges and agrees, by acceptance of this License that Lines and other appurtenances in the Rights-of-Way which are subsequently acquired by the Grantee shall be subject to the provisions of this Agreement and all permits related thereto.
5. Limitation on License Authority.
  - a. Cable Television Franchise Required. This License shall not be construed to grant Grantee authority to operate a cable television system, in lieu of obtaining from City a franchise to construct and operate a cable television system within the City of Rice Lake. However, Grantee may, pursuant to this License, construct the underground portion of its proposed cable television system where necessary to avoid re-excavating Rights-of-Way in which Grantee's Network is to be installed. Grantee's authority to construct a portion of its cable television system without a franchise is subject to Grantee's agreement to hold harmless and indemnify the City as set forth in Section 19.
  - b. Privileges Must be Specific. No privilege or exemption is granted or conferred by this License except as may be specifically prescribed.
  - c. No Right of Property. Any privilege claimed under this License in any City Right-of-Way shall be subordinate to any prior lawful occupancy or any subsequent legal exercise of City police power. The grant of License shall not impart to Grantee any fee title property rights in or on any public or private property to which such Grantee does not otherwise have title.
6. Term. This Agreement shall commence on its effective date, as set forth in Section 28, and shall continue until the City has adopted the Telecommunications Ordinance which shall govern the use of its Rights-of-Way by Telecommunications Providers and establish the terms and conditions, including the monetary terms and conditions, for use of City Rights-of-Way. Upon the adoption of such an ordinance, this Agreement shall terminate. If City fails to adopt such an ordinance, this Agreement shall terminate three (3) years after its effective date.

7. Most Favored Nations. If City grants a license or adopts an ordinance providing for a license to another Telecommunications Provider, who is operating under a certificate of public convenience and necessity and an interconnection agreement approved by the Public Service Commission of Wisconsin (PSC), for use of City Rights-of-Way that has terms that are more favorable than those set forth herein, then Grantee has the right to require that the City amend this Agreement to include those more favorable terms.

8. Excavation Permit Required. Grantee shall not commence construction of its Telecommunications Network until Grantee first obtains an excavation permit from the Superintendent of Streets and satisfies the requirements of Section 6-2-3 of the City's General Ordinances.

9. Registration Requirements. Before Grantee begins construction of any part of its Telecommunications Network, Grantee shall register and submit to the City Superintendent of Streets the following information:

- a. A construction plan which shall include, but not be limited to, the following information:
  - i. The specific locations and the beginning and ending dates of all construction projects planned to be commenced during the calendar year.
  - ii. The tentative locations and beginning and ending dates for all construction projects contemplated for the next three (3) following calendar years.
- b. A list of all independent contractors, if any, to be employed by the Grantee to work on the construction of the Telecommunications Network and a statement as to the nature of such work.
- c. Evidence of Diggers Hot Line registration, Grantee's address and e-mail address, if applicable, and telephone and facsimile numbers.
- d. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative shall be available at all times. Current information regarding how to contact the local

representative in an emergency shall be provided at the time of registration.

- e. A copy of the certificate of public convenience and necessity from the PSC.

10. Reporting Requirements.

- a. Operations. Grantee shall promptly notify the City of any changes in Grantee's construction plan under Section 9.a.
- b. "As-Built Drawings." By the following February 1 of each year of any construction, Grantee shall provide to City "as-built" drawings in a form satisfactory to City of that portion of the Telecommunications Network that has been completed that prior year. Once initial construction of the Telecommunications Network has been completed, Grantee shall submit updated drawings within 60 days of any modifications or extensions to the Telecommunications Network.
- c. Reports and Records. By March 31 of each year, Grantee shall file an annual report for the prior calendar year with the City Clerk, which shall include the following information:
  - (i) A current list of all Grantee's officers and directors or partners, if any, including addresses and telephone numbers.
  - (ii) The names and both business and residential addresses and phone numbers of the Network resident manager and engineer.
  - (iii) Copies of all rules, regulations, policies and procedures promulgated by the Grantee relating to the requirements of this Agreement.

11. Location of Equipment.

- a. Undergrounding. Unless Grantee uses existing utility poles or unless City directs otherwise, Grantee's installation of new equipment or replacement of old equipment shall be done underground or contained within buildings or other structures in conformity with applicable codes, customary above ground telecommunications pedestals excepted.

- b. Corridors. The Superintendent of Streets shall assign specific corridors within the Right-of-Way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the Superintendent of Streets expects will someday be located within the Right-of-Way. All excavation, obstruction or other permits issued by the Superintendent of Streets involving the installation or replacement of equipment shall designate the proper corridor for the equipment at issue.
  - c. Limitation of Space. The Superintendent of Streets shall have the power to prohibit or limit the placement of new or additional equipment within the Rights-of-Way if there is insufficient space to accommodate all of the requests of Persons to occupy and use the Rights-of-Way. In making such decisions, the Superintendent of Streets shall strive to the extent possible to accommodate all existing and potential users of the Rights-of-Way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the Rights-of-Way, the time of year with respect to essential utilities, the protection of existing equipment in the Rights-of-Way, and future City plans for public improvements and development projects which have been determined to be in the public interest.
  - d. Where Poles Are to Be Located. When telephone poles are erected in a street, they shall be erected in all cases, unless specifically directed by the Superintendent of Streets, on the outer edge of the sidewalk just inside the curbstone, and on the line dividing the lots one from another; and in no case shall they be so placed as to unreasonably inconvenience the public or the adjoining proprietor or resident, or to disturb the drainage of the street, or to interfere with or damage the trees or other public or private property on the line of the street or alley where such pole or poles shall be erected. Grantee may not cause new poles to be installed except to replace existing poles without specific written authorization from the Superintendent of Streets.
12. Relocation of Telecommunications Network. Grantee shall, at its expense, protect, support, temporarily disconnect, relocate or remove from any Right-of-Way any portion of its Network when so required by City by reason of traffic conditions or public safety, dedications of new Rights-of-Way and the establishment and improvement thereof, widening and improvement of existing Rights-of-Way, street vacations, highway



construction, change or establishment of street grade, or the construction of any public improvement or structure by City or any governmental agency.

13. Right of City to Use Poles and Conduits. The City shall have the right to use without charge and place on or in any Grantee owned pole, post or conduit and associated utility access structures (with surplus space as reasonably determined by Grantee) erected or laid in City Rights-of-Way for the purpose of stringing thereon or for laying therein a wire or wires for the exclusive use of the City departments; and no such pole or posts or conduit so used shall be removed until Grantee has given sixty (60) days prior written notice of such removal to the Superintendent of Streets.

14. Reimbursement of Costs. Grantee shall pay to City an administrative fee in the amount of Ten Thousand Dollars (\$10,000) to City to reimburse City for costs incurred in drafting and processing this Agreement and all work related thereto. Grantee shall pay this fee upon its written acceptance of this Agreement. Upon demand, Grantee shall reimburse City for any and all costs City incurs for review, inspection or supervision of Grantee's activities undertaken pursuant to this Agreement or any ordinances relating to such activities for which a permit fee is not established.

15. Effect of Contemplated Telecommunications Ordinance. Grantee understands that City will develop and adopt the "Telecommunications Ordinance," a comprehensive ordinance regulating the use of City's Rights-of-Way. This Ordinance shall apply to all Telecommunications Providers occupying City's Rights-of-Way. Grantee agrees to comply with all provisions of the Telecommunications Ordinance, including any Right-of-Way occupancy fee provisions.

16. City's Right to Terminate. If Grantee breaches this Agreement and such breach continues in excess of thirty (30) days of notification of breach by City, City shall have the right to terminate Grantee's License: provided, however, should Grantee fail to carry the insurance required under Section 20, City may immediately terminate Grantee's License.

17. Removal upon Termination. Upon termination of Grantee's License, including any extensions or substitute license pursuant to the Telecommunications Ordinance, Grantee shall, at its expense, promptly and diligently remove such portions of its Network from the Rights-of-Way as requested by City and shall restore to their former condition any Rights-of-Way disturbed by such removal. Removal, however, shall not be necessary if the Grantee

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sells its facilities to another Telecommunications Provider, subject to City's prior written approval. If Grantee fails to remove its facility upon request, City may perform the work at Grantee's expense.

18. Security for Performance. Grantee shall provide to City prior to commencement of construction of its Network an irrevocable letter of credit, in the form of the attached Addendum B, issued by a lender satisfactory to City in the amount of Fifty Thousand Dollars (\$50,000) to ensure that all excavations are properly completed and to ensure Grantee's performance of all of its obligations under this Agreement. The letter shall provide that City may draw on the letter of credit on written notice specifying that Grantee has not complied with this Section or has otherwise failed to perform one or more of its obligations under this Agreement.

19. Indemnification. Grantee shall defend, indemnify and hold harmless City, its elected officials, officers, departments, agencies, committees, commissions, boards, representatives, employees, agents, contractors and attorneys (collectively, "Indemnified Parties") against any and all liability, claims, costs, damages, expenses, demands, lawsuits and disputes (including reasonable attorney fees of counsel selected by City and all other costs and expenses of litigation) arising in any way from (i) any condition, occurrence or accident which causes injury or illness to any person or persons whomsoever or to any property whatsoever, arising in any way from the construction, presence, operation, maintenance or removal of Grantee's Network, unless caused solely by the wilful misconduct of City; (ii) work, labor, material or supplies provided or supplied to Grantee, its contractors or subcontractors, for the construction, operation, maintenance or use of Grantee's Network, including any claim or lien arising therefrom; (iii) Grantee's breach of any warranty, representation, obligation or other provision of this Agreement, and (iv) City's grant of authority to Grantee to partially construct a cable television system within the Rights-of-Way without obtaining a cable television franchise from City. This indemnification obligation specifically includes, among other things, any and all liability related to or associated with exposure to electromagnetic fields or radio frequencies and any claims, losses, and other covered matters that are caused or contributed to by the negligence of one or more Indemnified Parties.

Grantee's indemnification obligation under this Section shall survive termination of this Agreement.

20. Insurance.

- a. Coverage. Throughout the term of this Agreement, including any extensions of it, Grantee shall maintain liability insurance specifically detailed below. Such insurance shall be with insurers licensed to do business in Wisconsin that have a financial rating of A according to the AM Best insurance rating manual. Such liability insurance shall be kept in full force and effect by Grantee during the term of this Agreement and any extensions thereof and thereafter until after the removal of the Network or such part of it as is required by City or undertaken by the Grantee. Any contractors of Grantee performing on behalf of Grantee pursuant to this Agreement shall also be insured as required herein and name City as an additional insured.
- b. Failure to Procure. Grantee acknowledges and agrees, by acceptance of this License, that failure to procure or maintain the required insurance shall constitute a material breach of this Agreement and that City may immediately, at its discretion: (i) terminate Grantee's License; (ii) procure or renew such insurance to protect City's interests and be reimbursed by such Grantee for all premiums paid in connection therewith; or (iii) refuse to grant any further permits for street occupancy or openings until such insurance is obtained and City has been reimbursed for any and all costs which City has incurred in procuring or renewing insurance to protect City's interest.
- c. Insurance Amounts. Grantee shall maintain throughout the term of this Agreement worker's compensation insurance in at least the amounts required by law and liability insurance in the minimum amounts of:
  - (i) Commercial General Liability insurance - public liability including premises, products and complete operations, with limits as follows:

Bodily injury liability - \$500,000 each person/\$1,000,000 each occurrence.

Property damage liability - \$1,000,000 each occurrence.
  - (ii) Business Automobile Liability Insurance including owned, non-owned and hired vehicles, with limits as follows:

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Bodily injury liability - \$500,000 each person/\$1,000,000 each occurrence.

Property damage liability - \$1,000,000 each occurrence.

- d. Umbrella Liability Insurance. Grantee also shall maintain umbrella excess liability coverage, with limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate over Grantee's primary insurance.
- e. Adjustment of Insurance Amounts. The limits of coverage set out herein may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans, or laws which would materially increase or decrease City's or Grantee's exposure to risk.
- f. General. Grantee agrees that with respect to the above required insurance contracts, such contracts will contain the following required provisions:
  - (i) City and its officers, agents, employees, board members and elected representatives shall be named as additional insureds (as the interests of each may appear) as to all applicable coverage.
  - (ii) Contracts shall provide for thirty (30) day notices to City prior to cancellation, revocation, non-renewal or material change.
- g. Proof of Insurance. Grantee shall furnish proof to City that a satisfactory insurance policy has been obtained. A certificate of insurance, along with written evidence of payment of the required premiums, shall be filed and maintained with the City Clerk.

21. Compliance with Laws. Company, at its expense, shall diligently, faithfully and promptly obey all federal, state and local orders, rules, regulations and laws, in relation to any of its business, activities or other operations related to the construction, maintenance, or operation of its Telecommunications Network within City.

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22. Failure to Enforce. The Grantee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of City upon one or more occasions to insist upon or to seek compliance with any of such terms or conditions.

23. Applicable Law and Severability. This Agreement and any interpretation thereof shall be ruled by the internal laws of the State of Wisconsin. If one or more of the terms hereof are found to be void or invalid, those terms shall be deemed inoperative and null and void, and shall be deemed modified to conform to such rule of law, all without invalidating any of the remaining provisions of this Agreement or the enforceability thereof, which shall continue in full force and effect.

24. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by both parties. Grantee and City represent that each has full right, power and authority to sign this Agreement.

25. Force Majeure. Prevention or delay of any performance under this Agreement due to circumstances beyond the control of Grantee or City including weather, acts of nature, strikes and similar unforeseen circumstances but not including economic hardship or inability to secure materials, shall not be deemed to be non-compliance with or a violation of this Agreement.

26. Service of Notice. Except as otherwise specifically provided herein, any notices required or permitted to be given under this Agreement shall be deemed properly served when deposited with the United States Postal Service, postage paid, certified or registered mail, addressed to the party to receive same, or at such other address of which the party to receive the notice shall have designated in this Agreement. On the date of mailing, the party giving the notice also shall send a copy of the notice by facsimile transmission to the facsimile number, if any, designated by the other party for such notices.

NOTICES TO CITY shall be addressed to all of the following:

[TO BE FILLED IN]

Fax No.: \_\_\_\_\_

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With Copy to:

[TO BE FILLED IN]

Fax No.: \_\_\_\_\_

NOTICES TO THE GRANTEE shall be addressed to all of the following:

[TO BE FILLED IN]

Fax No.: \_\_\_\_\_

With Copy to:

[TO BE FILLED IN]

Fax No.: \_\_\_\_\_

27. Assignment. Grantee shall not assign its License or this Agreement without City's prior written consent, which shall not be unreasonably withheld.

28. Effective Date. This Agreement shall be effective upon execution by City pursuant to an adopted resolution of the Common Council of City and written acceptance by Grantee.

Dated at Rice Lake, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

**CTC-Telecom, Inc.**

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
Name, (Title)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
Name, (Title)

**CITY OF RICE LAKE, WISCONSIN**  
a Wisconsin municipal corporation

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\_\_\_\_\_, Mayor

\_\_\_\_\_, City Clerk

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**ADDENDUM A**

**TELECOMMUNICATIONS NETWORK**



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**ADDENDUM B**

**LETTER OF CREDIT**

EXHIBIT H

Succent - 2-1-1  
City Council

## CHAPTER 2-STREETS AND SIDEWALKS

- S 6-2-1 Removal of Rubbish and Dirt From Sidewalks
- S 6-2-2 Sidewalk, Curb and Gutter Construction and Repair
- S 6-2-3 Excavations of Streets, Alleys, Public Ways and Grounds
- S 6-2-4 Regulations Governing Excavations and Openings
- S 6-2-5 Obstructions and Encroachments
- S 6-2-6 Street Privilege Permit: Moving Buildings
- S 6-2-7 Snow and Ice Removal
- S 6-2-8 Boulevard Areas
- S 6-2-9 Vaults
- S 6-2-10 Downspouts and Eaves of Buildings Not to Drain on Sidewalks.

### SEC. 6-2-1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council or Street Superintendent, the Council or Street Superintendent may cause the same to be done and report the cost thereof to the Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, or such cost may be recovered in an action against the owner or occupant.

### SEC. 6-2-2 SIDEWALK, CURB AND GUTTER CONSTRUCTION AND REPAIR.

- (a) **UNSAFE SIDEWALKS.** The Public Works Committee of the Common Council and the Street Superintendent are hereby authorized to determine which sidewalks in the City are unsafe, defective or insufficient and in need of repair or replacement and to formulate an annual program for ordering such sidewalks to be repaired, removed or replaced.
- (b) **COST OF REPLACEMENT AND REPAIR.** The expense of removal, replacement or repair of sidewalks shall be borne by the City and the property owner in accordance with a formula to be adopted by the Common Council for each year of sidewalk repair. It is the intention of this Section to determine the relative sharing of cost of sidewalk repair between the property owner and the City on a yearly basis.
- (c) **SPECIAL ASSESSMENT.** When the Council shall determine the cost sharing on the sidewalk repair each year, the property owner may pay his share or elect to have it placed on the tax roll as a special assessment with four (4) annual installments and with interest as provided by law.
- (d) **PERMIT REQUIRED.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained a permit therefor from the Street Superintendent at least three (3) days before work is proposed to be undertaken. No fee shall be charged for such permits.

- (e) **CURB AND GUTTER.** All the foregoing provisions relating to replacement and repair of sidewalks shall be equally applicable to the replacement and repair of curb and gutter throughout the City. The present formula for new curb and gutter shall remain the same.
- (f) **REPAIR AND REPLACEMENT OF DOWNTOWN SIDEWALKS.** For purposes of this section, downtown sidewalks consist of any sidewalks on Main Street located between Messenger Street and Humbird Street. Whenever it is determined, pursuant to Section (a) hereinabove, that the downtown sidewalks are unsafe, defective, or insufficient and in need of repair or replacement, such sidewalks shall be replaced with exposed aggregate composition material. It is the purpose of this section to recognize that the downtown sidewalks are of a unique character; and to require that such downtown sidewalks retain their unique character composition.

### **SEC. 6-2-3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.**

- (a) **PERMIT REQUIRED.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or City owned easement within the City of Rice Lake without a permit.
- (b) **EXCAVATION FEE.** The fee schedule, as established by the Common Council, shall be on file with the Street Superintendent.
- (c) **INSURANCE REQUIRED.** A permit shall be issued only upon condition that the applicant submit to the Building Inspector satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$100,000 per one person, \$300,000 for one accident and property damage coverage of not less than \$50,000.
- (d) **EXCAVATIONS.**
  - (1) No person shall excavate upon any City land or on any private land upon which the City has an easement for utility use without permission from the Building Inspector. Complete plans of the area where the work is to be done shall be furnished to the City Street Superintendent and to the Board of Public Works or its designee.
  - (2) No permit shall be issued to any person unless the area to be utilized for the proposed work does not conflict with utility facilities.
- (e) **NOTICE OF EXCAVATION.** Any person who shall cause any excavation to be made in any street, alley way or other public way in the City, shall, before refilling such excavation, cause notice to be given to the Street Superintendent, or the Utility Superintendent, or the City Clerk-Treasurer, and shall not begin to refill until given permission to refill by the official who was given notice. When the excavation is refilled a like notice shall be given to one of the officials above named or a duly authorized agent of such department or departments that the filling of the excavation has been completed.
- (f) **RESURFACING.** Restoration and resurfacing shall be done at the expense of the permit holder.

**SEC. 6-2-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- (a) **FROZEN GROUND.** No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Street Superintendent or Utility Superintendent.
- (b) **MANNER OF EXCAVATION.** When opening any street surface, alley way or other public way, all material must be removed with the least inconvenience to the public, and all such materials must be so placed that they will admit free passage of water along the gutter. The backfilling must be compacted and all materials other than the surfacing material must all be put back in the trench or trenches dug. Sheathing must be used to prevent caving. When caving occurs, all the street surface thus disturbed must be restored in the same manner as though it were a trench excavation.
- (c) **PROTECTION OF PUBLIC.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunrise to sunset. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. One amber light to be placed at each end of an opening and others to be placed at intervals not to exceed ten (10) feet. No open flame warning pots shall be used. Except by special permission from the Street Superintendent, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet where pipe or conduit has been laid.
  - (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
- (d) **REPLACING STREET SURFACE.** In opening any public street, public alley, public sidewalk, public way, public easement, or public ground, the paving materials sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which in the opinion of the Street Superintendent is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be compacted not more than four (4) inches in depth and each layer compacted, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench.
- (e) **NOTICE.** It shall be the duty of the permittee to notify the Street Superintendent and all public and private individuals, firms and corporations affected by the work to be done at least twenty-four (24) hours before such work is to commence. The Street

Superintendent shall also be notified at least four (4) hours prior to backfilling and or restoring the surface.

- (f) **VALIDITY OF PERMIT.** Unless the work shall be commenced within thirty (30) days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Street Superintendent may extend the time limitation for good cause.
- (g) **EMERGENCY EXCAVATION.** In the event of an emergency any person, firm or corporation, owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health, or safety without obtaining an excavation permit, provided that such person firm or corporation shall apply for an excavation permit not later than the next business day.
- (h) **EXCAVATION IN NEW STREETS LIMITED.** Whenever the City determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination, the Street Superintendent shall notify in writing each person, utility, department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless in the opinion of the Board of Public Works an emergency exists which makes it absolutely essential that the permit be issued.
- (i) **EXCEPTION.** The provisions of this Section shall not apply to excavation work done under the direction of the Street Superintendent by City employees or contractors performing work under contract with the City except that the safety precautions under Subsection (c) hereof shall be complied with.

#### **SEC. 6-2-5 OBSTRUCTIONS AND ENCROACHMENTS.**

- (a) **OBSTRUCTIONS AND ENCROACHMENTS PROHIBITED.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds, or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in subsection (b).
- (b) **EXCEPTIONS.** The prohibition of subsection (a) shall not apply to the following:
  - (1) Signs or clocks attached to buildings which project no more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, street, or alley.
  - (2) Awnings which do not extend below any point seven (7) feet above the street, sidewalk, or alley.
  - (3) Public utility encroachments duly authorized by State Law or by the Common Council.

**EXHIBIT I**

**DIGGING PERMIT**

RICE LAKE STREET DEPARTMENT  
35 W ALLEN STREET  
RICE LAKE, WI 54868  
234-7402

DATE OF PERMIT: 10-28-97

PERMIT NO.: 1905

APPLICANTS NAME: Pat Anderson  
BUSINESS NAME: Marcus Cable  
STREET ADDRESS: 1725 South Main  
CITY/STATE/ZIP: Rice Lake, WI 54868  
TELEPHONE NO: (715) 234-3821

STREET ADDRESS OF EXCAVATION: 20th Ave (Allen St)  
LOCATION DESCRIPTION: Between 18 3/4 St and HWY 53  
PLANS OR SKETCH ATTACHED: yes  
COMPLETION DATE: 11-14-97

DESCRIPTION OF WORK: Place duct beginning at 18 3/4 St and going  
East approx. 1/4 mile to HWY 53

IF THE EXCAVATION DESCRIBED ABOVE IS NOT COMPLETED BY THE COMPLETION DATE  
SPECIFIED OR CONDITIONS LISTED UNDER VALIDITY OF PERMIT IN SPECIFICATIONS, THIS  
PERMIT IS NULL AND VOID AND THE EXCAVATION SHALL NOT BE CONSTRUCTED UNLESS  
AUTHORIZED THROUGH A SUPSEQUENT PERMIT.

ANY EXCAVATION SHALL BE CONSTRUCTED IN ACCORDANCE WITH ALL REQUIREMENTS  
PRINTED ON THE ATTACHED SPECIFICATIONS, AND ANY SPECIAL CONDITIONS STATED  
HEREIN. THE MAINTENANCE OF THE EXCAVATION SHALL BE THE RESPONSIBILITY OF  
THE APPLICANT.

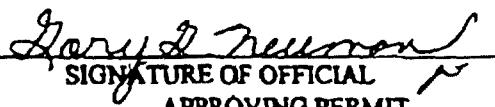
**SPECIAL CONDITIONS (IF APPLICABLE):**

ISSUANCE OF THIS PERMIT SHALL NOT BE CONSTRUED AS A WAIVER OF THE APPLICANT'S  
OBLIGATION TO COMPLY WITH ANY MORE RETRICTIVE REQUIREMENTS IMPOSED BY LOCAL  
ORDINANCES.

  
SIGNATURE OF APPLICANT

10-28-97

DATE

  
SIGNATURE OF OFFICIAL  
APPROVING PERMIT

Oct 28-97

DATE

PERMIT FEE: 10.00

PAYABLE TO: CITY CLERK-TREAS., CITY OF RICE LAKE  
11 E MARSHALL ST, RICE LAKE, WI 54868

APPLICANT IS AUTHORIZED TO PROCEED WITH SUCH WORK IN ACCORDANCE WITH STATE OF  
WISCONSIN AND CITY OF RICE LAKE CODES.

DISTRIBUTION: ORIGINAL TO APPLICANT, COPY TO STREET DEPT., COPY TO FOREMAN.



## DIGGING PERMIT

RICE LAKE STREET DEPARTMENT  
35 W ALLEN STREET  
RICE LAKE, WI 54868  
234-7402

DATE OF PERMIT: 10-28-97

PERMIT NO.: 1906

APPLICANTS NAME: Pat Anderson  
BUSINESS NAME: Marcus Cable  
STREET ADDRESS: 1725 South Main  
CITY/STATE/ZIP: Rice Lake, WI 54868  
TELEPHONE NO:  
(715) 234-3821

STREET ADDRESS OF EXCAVATION: Orchard Beach Ln/Kern Ave  
LOCATION DESCRIPTION: Approx. 1000 ft East from intersection  
PLANS OR SKETCH ATTACHED: yes  
COMPLETION DATE: 11-14-97

DESCRIPTION OF WORK: Place duct beginning at Kern Ave and going  
East approx. 1000 ft on Orchard Beach Ln

IF THE EXCAVATION DESCRIBED ABOVE IS NOT COMPLETED BY THE COMPLETION DATE  
SPECIFIED OR CONDITIONS LISTED UNDER VALIDITY OF PERMIT IN SPECIFICATIONS, THIS  
PERMIT IS NULL AND VOID AND THE EXCAVATION SHALL NOT BE CONSTRUCTED UNLESS  
AUTHORIZED THROUGH A SUPSEQUENT PERMIT.

ANY EXCAVATION SHALL BE CONSTRUCTED IN ACCORDANCE WITH ALL REQUIREMENTS  
PRINTED ON THE ATTACHED SPECIFICATIONS, AND ANY SPECIAL CONDITIONS STATED  
HEREIN. THE MAINTENANCE OF THE EXCAVATION SHALL BE THE RESPONSIBILITY OF  
THE APPLICANT.

### SPECIAL CONDITIONS (IF APPLICABLE):

ISSUANCE OF THIS PERMIT SHALL NOT BE CONSTRUED AS A WAIVER OF THE APPLICANT'S  
OBLIGATION TO COMPLY WITH ANY MORE RETRICTIVE REQUIREMENTS IMPOSED BY LOCAL  
ORDINANCES.

  
SIGNATURE OF APPLICANT

10-28-97  
DATE

  
SIGNATURE OF OFFICIAL  
APPROVING PERMIT

Oct 28-97  
DATE

PERMIT FEE: 10.00  
PAYABLE TO: CITY CLERK-TREAS., CITY OF RICE LAKE  
11 E MARSHALL ST, RICE LAKE, WI 54868

APPLICANT IS AUTHORIZED TO PROCEED WITH SUCH WORK IN ACCORDANCE WITH STATE OF  
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